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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,717	04/10/2000	Scott Olive		5432

23446 7590 01/13/2005
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER

NGUYEN, KIM T

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/462,717

Applicant(s)

OLIVE, SCOTT

Examiner

Kim Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 106 and 107 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 106 and 107 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/16/04, 10/5/04, 10/12/04, 11/16/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner acknowledges receipt of amendment on 10/14/04. According to the amendment, claims 1-105 have been canceled, claims 106-107 have been added, and claims 106-107 are now pending in the application.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 106-107 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification page 7, lines 31-32, discloses allotting one number for each credit. However, the specification does not disclose allotting a plurality of numbers for each credit as claimed in claim 106, line 10. Claim 107 is rejected as being dependent on the rejected base claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 106-107 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torango (US 6,592,460).

a. As per claim 106, Torango discloses a method of awarding a progressive prize comprising allowing the player to bet a wager (col. 7, lines 1-9; and col. 24, lines 6-7), initiating the play (col. 7, lines 18-20), selecting a random number within a predetermined fixed range of numbers (col. 16, lines 41-53 and 50-55; and col. 24, lines 13-14); awarding the progressive prize (col. 16, lines 43-45 and col. 24, lines 17-19). Torango does not explicitly disclose allotting a plurality of numbers for each credit bet by the player. However, Torango discloses allotting a number for a bet wager, the number is within the predetermined fixed range of numbers (col. 16, lines 11-40 and 43-45; and col. 24, lines 3 and 11-12). It would have been obvious design choice to a person of ordinary skill in the art at the time the invention was made to allot a plurality of numbers for each credit of the wager in order to facilitate adjusting the probability of winning according to the amount of wager.

b. As per claim 107, implementing identical play characteristic for each gaming machine to ensure uniformity of all the gaming machine would have been well known to a person of ordinary skill in the art at the time the invention was made.

Remarks

In the Remarks in the third paragraph of page 3, the examiner does not agree that claims 106-107 are allowable over Torango (US 6,592,460). Instead, in the interview, the examiner just agrees to reconsider the claims 106-107 against the teaching of Torango. Upon consideration of independent claim 106, the examiner finds that claim 106 is obviously taught by Torango (refer to the section ***Claim Rejections-35 USC § 103*** above). Further, since Torango discloses assigning a fixed range of numbers (col. 16, lines 25-40), selecting a random number within the fixed range (col. 24, lines 13-14), allotting a number to the player from the fixed range (col. 24, lines 3 and 11-12), and awarding the player (col. 24, lines 17-19); and since assigning the range, selecting a random number, allotting a number, and awarding the player made a complete single play, Torango obviously discloses not to change the fixed range of numbers during the single play.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

(703) 872-9306, (for formal communications; please mark "EXPEDITED
PROCEDURE")

Hand-delivered responses should be brought to Crystal Plaza II, Arlington, VA
Second Floor (Receptionist).

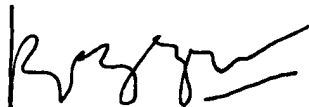
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is (571) 272-4441. The examiner can normally be reached on Monday-Thursday from 8:30AM to 5:00PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on (571) 272-7147. The central official fax number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

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Date: January 5, 2005


KIM NGUYEN
PRIMARY EXAMINER